

KONINKLIJKE PHILIPS ELECTRONICS N.V. and U.S. PHILIPS CORPORATION,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action Nos.
	:	
CINRAM, et al.,	:	08CV0515 (RGS)
	:	
THE ADS GROUP, et al..	:	08CV4068 (RGS)
	:	
ENTERTAINMENT DISTRIBUTION COMPANY (USA) LLC, et al., and	:	08CV4070 (RGS)
	:	
OPTICAL EXPERTS MANUFACTURING INC., et al.	:	08CV4071 (RGS)
	:	
	:	ECF Case
Defendants.	:	
	:	

Pursuant to D. Mass Local Rule 16.6, S.D.N.Y. Local Rule 6.3, and the Court's May 4, 2010 Memorandum and Order on Claim Construction (08cv0515 Dkt. #164), Defendants respectfully request a Markman Determination of Disputed Claim Terms that were not construed in the Court's May 4, 2010 Order. A list of these terms as well as the parties' respective proposed constructions are attached hereto as Appendix 1. The meaning of these claim terms, which are relevant to Defendants' Non-Infringement, Invalidity and Unenforceability Contentions, filed on August 14, 2009 (08cv0515 Dkt. # 122), are in controversy. Accordingly, Defendants respectfully request that the Court issue a Markman Determination of these remaining disputed claim terms in due course.

Date: May 18, 2010

Respectfully submitted,

/s/ Ivan Kavrukov

Ivan Kavrukov

William E. Pelton

Tonia A. Sayour

Gregory J. Carbo

COOPER & DUNHAM LLP

30 Rockefeller Plaza

New York, New York 10112

Tel: (212) 278-0400

Fax: (212) 391-7550

ikavrukov@cooperdunham.com

wpelton@cooperdunham.com

cdunham@cooperdunham.com

tsayour@cooperdunham.com

gcarbo@cooperdunham.com

Attorneys for defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of May, 2010, a copy of the foregoing DEFENDANTS' REQUEST FOR MARKMAN DETERMINATION OF REMAINING DISPUTED TERMS was served by email and first class mail, postage pre-paid, on the following attorneys for plaintiffs, addressed as follows:

Edward D. Johnson
MAYER BROWN LLP
Two Palo Alto Square, Suite 300
3000 El Camino Real
Palo Alto, California 94306-2112
wjohnson@mayerbrown.com

Vince P. Kovalick
John F. Hornick
Samuel C. Bass
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001
vince.kovalick@finnegan.com
John.Hornick@finnegan.com
Samuel.Bass@finnegan.com

Christopher J. Hought
MAYER BROWN LLP
1675 Broadway
New York, New York 10019
chought@mayerbrown.com

/s/ Gregory J. Carbo
Gregory J. Carbo

APPENDIX 1

Claim Term	Philips' Construction	Defendants' Construction
“planar surfaces”	Relatively flat surfaces.	The flat surfaces of the substrate.
“tracks”	Rings or a spiral of depressions and intermediate areas.	Rings or a spiral of depressions (defined below) and intermediate areas (defined below) on one of the flat surfaces of the substrate.
“beam of radiation”	Directed stream of radiation within a predetermined frequency range.	A beam of radiation such as light.
“depressions”	Regions situated at a different level than the intermediate areas.	Deliberate dips or dimples into one of the flat surfaces of the substrate (rather than any inadvertent surface irregularities).
“intermediate areas”	Areas situated at a different level than the depressions.	Track lengths that contain no deliberate depressions.
“optical structure”	The structure that represents the information on the disc.	The tracks plus a reflective layer.
“radiation reflecting”	Reflects the radiation	An optical structure that reflects radiation.
“additional layer”	Another layer.	A layer that is above the optical structure and through which no radiation passes.